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*Attorneys for Defendant Merck & Co., Inc.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: FOSAMAX PRODUCTS  
LIABILITY LITIGATION

*This Document Relates to:*

Carrie Smith, et al.

v. Merck &amp; Co., Inc., et al.

Case No: 1:07-cv-9564-JFK

MDL NO. 1789  
1:06-md-1789 (JFK)

**NOTICE OF MOTION OF DEFENDANT MERCK & CO., INC. TO DISMISS THE  
CLAIMS OF PLAINTIFF CARRIE SMITH  
WITH PREJUDICE FOR FAILURE TO PROVIDE PLAINTIFF PROFILE FORM**

PLEASE TAKE NOTICE that, upon the Notice of Motion of Defendant Merck & Co., Inc., the Declaration of Theodore V. H. Mayer, and the accompanying Memorandum of Law in Support of its Motion to Dismiss with Prejudice for Failure to Provide Plaintiff Profile Form, Defendant Merck & Co., Inc. will move this Court before the Honorable Judge John F. Keenan, in the United States Courthouse for the Southern District of New York, for an Order

dismissing the claims of Plaintiff Carrie Smith with prejudice for failure to provide any response to the Plaintiff Profile Form as required by Case Management Order No. 3.

Dated: New York, New York

April 16, 2008

Respectfully submitted,

HUGHES HUBBARD & REED LLP

By: \_\_\_\_\_/s/

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